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January 22, 2007

BY ELECTRONIC FILING

The Honorable Gregory M. Sleet
U.S. District Court
District of Delaware
844 N. King Street
Lockbox 19
Wilmington, DE 19801

Re: Gloria Nieves and Emilio Nieves v. Acme Markets, Inc.
Civil Action No. 06-123

Your Honor:

In anticipation of the discovery teleconference scheduled for Wednesday, January 24, 2007 at 2:00 P.M. in the above-captioned matter, Defendant Acme Markets, Inc. and Plaintiffs Emilio and Gloria Nieves jointly submit the following items to be presented to the Court outlining the issue in dispute.

Defendant's Issue:

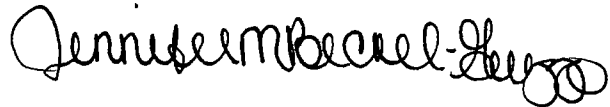
- Plaintiff Gloria Nieves filed a Charge of Discrimination against Acme Markets, Inc. with the Delaware Department of Labor ("DDOL"), claiming discrimination based on her national origin and retaliation.
- Mr. Thomas J. Smith, the Labor Law Enforcement Officer for the Office of Labor Law Enforcement, conducted an investigation on the matter and issued a Cause Finding.
- Plaintiffs Gloria Nieves and Emilio Nieves have since filed an employment discrimination lawsuit in the District of Delaware.
- Plaintiffs would like the DDOL's Cause Finding to be admitted at trial.
- Defendant subpoenaed the DDOL for all documents relating to the file regarding Ms. Nieves' Charge and commanded Mr. Smith's attendance at a deposition.

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- The DDOL produced some documents in the file already produced by Plaintiffs, but declined to produce Mr. Smith's notes on the basis of privilege. Additionally, the DDOL declined to produce Mr. Smith for questioning on the same basis.
- Defendant requests this Court to order the production of Mr. Smith and his complete file, and to order his deposition to proceed.
- Defendant would like to take the deposition of Mr. Smith to determine the trustworthiness of the DDOL's investigation, and to establish that the Cause Finding and supporting documentation should not be admitted at trial. Plaintiffs also want this discovery to establish that the Cause Finding should be admissible.
- Finally, both parties request that discovery remain open for the purpose of pursuing this discovery from the DDOL.

Should Your Honor have any questions prior to Wednesday's teleconference, counsel is available at the Court's convenience.

Respectfully,

A handwritten signature in black ink, appearing to read "Jennifer M. Becnel-Guzzo". The signature is fluid and cursive, with a large, stylized "J" and "G".

Jennifer M. Becnel-Guzzo (#4492)

JMB/psr

cc: Clerk of the Court
Philip Bartoshesky, Esquire
Linda Carmichael, Esquire (via facsimile)